IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15901 of 2004

Between:

Bommana Ravi S/o. Bhumanna, aged 31 years, Occ: Sarpanch of

Gram Panchayat , Renjarla,
Balkonda Mandal Nizamabad District
R/o Renjarla Village, Nizamabad District.

..... PETITIONER

AND

1 District Collector (Panchayat Wing) Nizamabad, Nizamabad District.
2 District Panchayat Officer Nizamabad, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more in the nature of writ of Mandamus declaring that the order passed by the 1st respondent in proceedings No.399/2004-B5 (P) dated 11.8.2004 is quiet illegal and contrary and set aside the same.

For the Petitioner: MR.K.K.SRINIVAS , Advocate

For the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following :

ORAL ORDER:

The petitioner who was elected Sarpanch of Renjarla Gram Panchayat was served with a show cause notice dt. 25-6-2004 issued by the Collector (Panchayat Wing), Nizamabad as to why he cannot be removed from the post of Sarpanch on the ground that a case in Cr.No.24/2004 has been registered against the Sarpanch in Balkonda Police Station under Section 376-G IPC. After receiving the notice, the petitioner submitted his explanation dt. 5-7-2004 stating that Upa-Sarpanch and his associates have bore grudge against him and they foisted a false case against him. He further stated that while he was in jail during the period of remand from 1-3-2004 to 1-6-2004, the complainant at whose instance crime was registered submitted a notarized affidavit to the court stating that there is no relation to the Sarpanch with the said crime and Upa-Sarpanch threatened her with dire consequences and obtained her signatures on blank papers which resulted in filing of FIR and requested for withdrawal of the notice dt.25-6-2004. The District Collector after considering the explanation of the petitioner and also taking into consideration the

charge-sheet filed by the police before the competent criminal court on 18-6-2004, in which the petitioner was shown as Accused No.1, issued the impugned notification dt. 11-8-2004 removing the petitioner from the post of Sarpanch of Renjarla Gram Panchayat with effect from 11-9-2004 under sub-section 1(ii) of Section 249 of the A.P.Panchayat Raj Act, 1994 (for short "the Act").

Section 249(1) of the Act authorizes the District Collector to remove Sarpanch on the following grounds:

i. willfully omitted or refused to carry out the orders of the Government for the proper working of the concerned local body; or

ii. abused his position or the powers vested in him; or

iii. is guilty of misconduct in the discharge of his duties; or

iv. persistently defaulted in the performance of his functions and duties entrusted to him under the Act to the detriment of the functioning of the concerned local body or has become incapable of such performance.

The petitioner's case does not fall in any one of the category as referred to above. Similarly, the petitioner cannot be disqualified to hold the office since there is no conviction in an offence involving moral turpitude as contemplated under Section 19 of the Act. Since there is no provision that disqualifies the petitioner to hold the office on his mere involvement in Cr.No.24/2004 on the file of Police Station, Balkonda, the impugned notification dt. 11-8-2004 removing the petitioner from the office of Sarpanch, Renjarla Gram Panchayat without there being any enquiry conducted, cannot be sustainable and the same is accordingly set aside.

The writ petition is accordingly allowed. No costs.

A.GOPAL REDDY,J

Dt. 9-9-2004

kmr

1 District Collector (Panchayat Wing) Nizamabad, Nizamabad District.
2 District Panchayat Officer Nizamabad, Nizamabad District.

3. Two CCs to the Govt.,Pleader for Panchayat Raj, High Court Buildings, Hyderabad(OUT).

4. Two CD copies.